

## REMARKS

Applicants acknowledge receipt of the non-final Office Action mailed September 17, 2009. Claims 1-8 are pending. Claims 1-8 stand rejected.

With the present Amendment and Reply, Applicants amend claim 1 to recite compounds commensurate in scope with the election filed June 5, 2009 (compound 1.16 as shown in Table 1, page 19 of the published specification). Applicants also introduce the following amendments to claim 1 as summarized in the following table.

Amendment	Support (specification as filed)
R <sup>3</sup> has been amended to hydrogen	page 7, embodiment 23
R <sup>4</sup> has amended to hydrogen	page 7, embodiment 24
k and m are each amended to be 1	page 2, lines 4-5
R <sup>10</sup> has been amended to recite <u>CN, NO<sub>2</sub>, -C(=NOR<sub>14</sub>)-R<sub>13</sub>, -C(=O)-R<sub>15</sub>, -C<sub>1</sub>-C<sub>6</sub>alkyl-O-R<sub>16</sub>, -NH-C(=O)-O-R<sub>17</sub> or -CH(O-R<sub>18</sub>)<sub>2</sub></u>	pages 5 to 6, embodiment 2
R <sup>11</sup> has been amended to recite H, C <sub>1</sub> -C <sub>12</sub> alkyl, halogen, or <u>CN or -C(=O)-R<sub>15</sub></u>	page 6, embodiment 10

With the present Amendment and Reply, Applicants cancel claim 4. Claim 5 is amended to depend from claim 1. Applicants also introduce new claims 9 and 10. Support for these new claims exists throughout the specification including, but not limited to, page 7, embodiments 21 and 22, respectively. No new matter is presented.

Applicants address the issues raised by the Examiner in the order in which they appear in the Office Action dated September 17, 2009. Reconsideration is respectfully requested.

### Information Disclosure Statement

The Examiner notes that the listing of references in the specification is not a proper information disclosure statement and such references must be submitted in a separate paper. Based on the SB/08A form returned with the Office Action of September 17, 2009, the Examiner has not considered the Japanese references cited (JP2001335550A; JP 08109156A; and JP007330651). Applicants submit contemporaneously herewith a supplemental information disclosure statement providing the Examiner with copies of English abstracts corresponding to these three Japanese publications in accordance with 37 CFR 1.98(b). Consideration of these references is respectfully requested.

Rejection of Claims 1-8 Under 35 U.S.C. 103(a)

Claims 1-8 stand rejected under 35 U.S.C. 103(a) as being obvious over Ikegama et al. (WO 97/27173). The Examiner contends one having ordinary skill in the art would have been motivated to select the claimed compounds from the genus in the reference since such compounds would have been suggested by the reference as a whole. Applicants respectfully traverse this rejection for the following reasons.

The instantly claimed compounds are not obvious over Ikegama et al. Ikegama et al. is the sole cited reference and, therefore, must disclose each element recited in the currently claimed compounds in order to support an argument of obviousness. Ikegama et al. fails in this respect. In fact, the scope of the present invention does not overlap with the disclosure of Ikegama et al. The currently claimed compounds all possess an unsaturated substituent, either an alkenyl or alkynyl group, directly attached to the left-hand aryl ring (phenyl in the amended claims). Ikegama et al. fails to teach or suggest such compounds. Further, neither  $Q^2$  nor  $R^7$  as described by Ikegama et al. encompass alkenyl or alkynyl groups as is currently claimed. Ikegama et al. fail to teach or even suggest compounds possessing such substituents.

Ikegama et al. fail to teach or suggest the currently claimed compounds. The Examiner bears the burden of providing a factual basis or rationale as to why one of ordinary skill in the art would have been motivated to modify Ikegama et al. to arrive at the instantly claimed compounds. Thus, to establish a *prima facie* case of obviousness, the Examiner must show there existed a reason to modify Ikegama et al. in a manner that would result in the claimed compounds. The Examiner has failed to provide such a factual basis for rationale. Thus, the Examiner has failed to meet the *prima facie* burden. Withdrawal of the rejection is respectfully requested.

Finally, the Examiner has requested further limitations to the claims over and above that made in response to the Restriction Requirement, because of the quantity of prior art identified by the search. Applicants contend that the search has been incorrectly conducted and essential features of the present invention have not been included in the search criteria. Such a contention is supported by the conclusions reached regarding Ikegama et al. where it appears the olefin functionality has not been considered. Applicants note that the International Search Report failed to identify any documents considered of particular relevance to novelty or inventive step. As such, Applicants will not further limit the claims and, instead, request the Examiner to review the claims to revise the search criteria. In this regard, Applicants are available if a discussion would prove helpful.

**CONCLUSION**

Applicants respectfully request the Examiner reconsider the rejections and allow the present claims. Applicants request that if the Examiner has any issue outstanding for resolution, the Examiner telephone the undersigned for expeditious handling.

Respectfully submitted,

Date: December 17, 2009

/Mark D. Jenkins/

Mark D. Jenkins  
Registration No. 59,566

WOMBLE CARLYLE SANDRIDGE & RICE  
P. O. Box 7037  
Atlanta, Georgia 30357-0037  
(919) 484-2317 (direct dial)  
(919) 484-2096 (facsimile)